



May 16, 2008

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Portals II, Room TW-A325
Washington, DC 20554

EX PARTE PRESENTATION

Re: *Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92*

Dear Ms. Dortch:

This is to inform you that the undersigned, representing USTelecom, met with Amy Bender, Acting Legal Advisor to Chairman Martin, to discuss the issue of Phantom Traffic.

During this meeting, USTelecom presented the following document which identifies several reasonable steps that the Commission could and should take immediately to address industry concerns regarding unbillable traffic on the public switched telephone network. This document formed the substance of the conversation.

Pursuant to Commission rules, please include this letter in the dockets of the proceedings identified above.

Sincerely,

Glenn Reynolds
Vice President, Policy

cc: Amy Bender



Phantom Traffic

USTelecom's Proposal for
Common-Sense Call Signaling Rules

WC Dkt. No. 01-92
February 2008



The Problem

- While the 1996 Act favors negotiated agreements between service providers to establish the terms and conditions for exchanging traffic, *see, e.g., T-Mobile Order* at ¶ 14, the Commission's existing rules do not adequately provide all of the tools necessary to facilitate or enforce such agreements.
- Key Deficiencies:
 - Information
 - Reciprocal Negotiating Rights



1995 Caller ID Orders

- In the *Caller ID Proceeding*, the FCC established “federal policies to govern the passage of the calling party number over interstate facilities...because uncertainty created by their absence appeared to be impeding development of potentially valuable interstate services...” *Caller ID Recon Order*, FCC 95-187 (CC Dkt. 91-281).



1995 Caller ID Rules

47 C.F.R. § 64.1601(a):

“Except as provided in paragraph (d) of this section, common carriers using Signaling System 7 and offering or subscribing to any service based upon Signaling System functionality are required to transmit the calling party number (CPN) associated with an interstate call to interconnecting carriers.”

47 C.F.R. § 64.1600(c):

Calling Party Number: The term “Calling Party Number” refers to the subscriber line number or the directory number contained in the calling party number parameter of the call set-up message associated with an interstate call on a Signaling System 7 network.”



Today's Call Signaling Needs

While not fixing every dispute that has been characterized as Phantom Traffic in this docket, the FCC could significantly address Phantom Traffic and facilitate agreements by updating the principles expressed in the *Caller ID Proceeding* to reflect today's communications technologies and markets.

- Reasonable Call Signaling obligations are essential to efficient network interconnection rights and responsibilities.
- Reasonable Call Signaling obligations are essential to ensuring the integrity of the existing inter-carrier compensation model.
- Reasonable Call Signaling obligations will continue to be essential under reformed inter-carrier compensation schemes.



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Phantom Traffic Principles

These rules should apply to all traffic originating on or terminating to the public switched telephone network (PSTN), including all traffic destined for the PSTN from other networks.



Rules Should Apply to All Traffic

Intra-state:

- ❑ Commission has already concluded that “CPN-based services are ‘jurisdictionally-mixed’ services” *Caller ID Recon Order* at ¶ 62.
- ❑ Failure to apply call signaling rules to intra-state traffic would undermine the Commission’s goals with respect to ensuring accurate identification of inter-state traffic.

Non-Common Carriers:

- ❑ Commission has jurisdiction under Title I to apply fundamental obligations to non-carriers that deliver traffic to the PSTN.

New Technologies:

- ❑ Should not be tied to SS7 if other technologies already deployed in the network allow for delivery of CPN.



Signaling Telephone Number Information

- *Proposed Rule:* Every originating provider must transmit in its signaling, where feasible with its network technology deployed at the time the call was originated, the telephone number received from or assigned to the calling party. This provision does not apply to calls subject to 47 C.F.R. §§ 64.1601(d) or (e), or where PSTN industry standards or guidelines would dictate otherwise.



Transmitting Signaling Information Without Alteration

- *Proposed Rule:* Every provider must transmit without alteration, except where not feasible with network technology deployed at the time the call was originated, or where PSTN industry standards would dictate otherwise, the telephone number information that it receives from another provider in signaling.



Routing of Traffic

- It should be deemed an unreasonable practice for a provider to route traffic for the purpose of disguising the identity of the financially responsible provider or the traffic's originating jurisdiction.



Performing Local Number Portability Queries

- *Proposed Rule or Clarification:* The N-1 carrier is responsible for performing a local number portability (LNP) query before passing the call to the local network of the N carrier. The Commission should clarify that the originating carrier is the N-1 carrier on a non-IXC call, and that an IXC handing traffic to a non-IXC is the N-1 carrier for IXC-carried calls.
- The N-1 carrier must initiate (itself, or by contract with another provider) the required LNP query before passing the call on to the local network of the N carrier.
 - While these obligations appear clear, see, *Telephone Number Portability 2nd R&O*, FCC 97-289 at ¶¶ 73-78, some originating providers apparently have interpreted the “default carrier” provisions as a broad exception allowing them to pass this obligation on to the terminating carrier.



Enhancing Carriers' Ability to Obtain Traffic Termination Agreements

- *Proposed Rule:* The Commission should extend the principle of the *T-Mobile* decision, 20 FCC Rcd 4855, and provide incumbent local exchange carriers the ability to invoke the 251/252 negotiation/arbitration process with other carriers with which they exchange traffic.
- In *T-Mobile*, the Commission recognized that it was appropriate to apply the obligations of §251(b)(5) in a symmetrical manner in order to best facilitate negotiated arrangements. ¶ 15-16. That Order's policy and legal analysis are equally applicable with respect to other service providers.



Enforcing Phantom Traffic Rules

- These rules and obligations shall be enforceable through the Commission's existing complaint processes and procedures, or other such remedies as may be permitted by law. The Commission should commit to resolving such complaints expeditiously.
- The Commission should indicate that it will initiate enforcement proceedings against parties that regularly violate these Proposed Phantom Traffic Rules, and where deemed appropriate, should exercise its authority to assess forfeitures for each violation of the Proposed Phantom Traffic Rules taking into account the willfulness and recurrence of the provider's violations